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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/783,580	02/20/2004	Michael Joseph Johnson	RPS920030057US1	7733
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IBM CORPORATION PO BOX 12195 DEPT YXSA, BLDG 002 RESEARCH TRIANGLE PARK, NC 27709			EXAMINER LAstra, DANIEL	
			ART UNIT 3688	PAPER NUMBER
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**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

<b>Office Action Summary</b>	<b>Application No.</b> 10/783,580	<b>Applicant(s)</b> JOHNSON, MICHAEL JOSEPH	
	<b>Examiner</b> DANIEL LASTRA	<b>Art Unit</b> 3688	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 28 October 2004.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-68 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-68 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \*    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)            | 4) <input type="checkbox"/> Interview Summary (PTO-413)           |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)   | Paper No(s)/Mail Date. _____                                      |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____  | 6) <input type="checkbox"/> Other: _____                          |

### **DETAILED ACTION**

1. Claims 1-68 have been examined. Application 10/783,580 (METHOD AND SYSTEM FOR MEASURING EFFECTIVENESS OF SHOPPING CART ADVERTISEMENTS BASED ON PURCHASES OF ADVERTISED ITEMS) has a filing date 02/20/2004.

#### ***Claim Rejections - 35 USC § 101***

2. 35 U.S.C. 101 reads as follows:

Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.

Claims 56-68 are rejected under 35 U.S.C. 101 because the claims are directed to non-statutory subject matter. Said claims are simply claiming functional descriptive material (i.e. software) without any recitation of a proper computer readable medium as a "signal embodied in a carrier wave" is not a proper computer readable medium

#### ***Claim Rejections - 35 USC § 112***

3. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claims 56-68 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. Said claims are indefinite because do not present a proper structure.

***Claim Rejections - 35 USC § 102***

4. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(a) the invention was known or used by others in this country, or patented or described in a printed publication in this or a foreign country, before the invention thereof by the applicant for a patent.

Claims 1-15, 17-40, 42-53, 55-66 and 68 are rejected under 35 U.S.C. 102(a) as being anticipated by Treyz (US 6,587,835).

Claim 1, Treyz teaches:

A method for measuring effectiveness of advertisements displayed on a shopping cart, wherein said method comprises:

a) displaying at least one advertisement on said shopping cart (see col 47, lines 30-35; col 50, lines 1-15);

b) generating advertisement history data representing each of said at least one advertisement (see col 48, lines 35-40);

c) generating a code representing at least one item purchased by a shopper using said shopping cart (see col 47, lines 55-67);

d) comparing each said code representing at least one item with said advertisement history data to determine whether an item advertised in said at least one advertisement is purchased by said shopper using said shopping cart (see col 47, line 30 – col 48, line 40);

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and e) generating usage data representing each display of an advertisement for an item purchased by said shopper using said shopping cart (see col 47, line 30 – col 48, line 40) .

Claim 2, Treyz teaches:

Wherein step a) includes displaying images generated from an electrical signal on a display screen (see col 48, lines 1-40), and

step b) includes storing a code representing each of said at least one advertisement in an advertisement history data stricture (see col 48, lines 35-43).

Claim 3, Treyz teaches:

Wherein step a) includes holding at least one advertising placard within a display unit, and step b) includes generating an electrical signal in accordance with settings of electrical contacts operated according to a pattern of a surface of said at least one advertising placard held within said display unit (see col 64, lines 1-10 “logo adjacent the meat category”).

Claim 4, Treyz teaches:

Wherein step c) includes reading a machine readable element identifying said at least one item with a sensing device at a point-of-sale terminal, and said method additionally comprises transmitting said advertisement history data to said point-of sale terminal from said shopping cart adjacent said point-of-sale terminal (see col 47, lines 55-67).

Claim 5, Treyz teaches:

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Wherein said method additionally comprises transmitting said code representing said at least one item and said advertisement history data to a store computer system from said point of sale terminal (see col 47, lines 30-67), and

steps d) and e) are performed according to instructions executing within said store computer system (see col 47, lines 30-67).

Claim 6, Treyz teaches:

Wherein step a) occurs during a period of use of said shopping cart by said shopper, a beginning of said period of use is determined by sensing movement of said shopping cart (see col 50, lines 1-15), and

an end of said period of use is determined by transmitting said advertisement history data to said point-of-sale terminal (see col 50, lines 1-15 “temporarily placed in a shopping cart”).

Claim 7, Treyz teaches:

Wherein step a) occurs during a period of use of said shopping cart by said shopper, a beginning of said period of use is determined by sensing manual operation of a switch (see col 50, lines 1-15), and

an end of said period of use is determined by transmitting said advertisement history data to said point-of-sale terminal (see col 50, lines 1-15 “temporarily placed in a shopping cart”).

Claim 8, Treyz teaches:

Wherein step c) includes reading a machine readable element identifying said at least one item with a sensing device attached to said shopping cart (see col 25, lines 5-

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10), said method additionally comprises transmitting said code representing said at least one item and said advertisement history data to a store computer system from said shopping cart (see col 47, lines 55-67), and steps d) and e) are performed according to instructions executing within said store computer system (see col 47, lines 55-67).

Claim 9, Treyz teaches:

Wherein said shopping cart additionally includes a receipt printer (see col 53, lines 55-60),

step a) occurs during a period of use of said shopping cart by said shopper with said sensing device, said period of use begins with reading said machine readable element of a first item (see col 53, lines 55-60);

said period of use ends with printing a receipt within said receipt printer (see col 53, lines 55-60).

Claim 10, Treyz teaches:

Wherein step d) includes comparing a code representing at least one item with a data record representing at least one advertisement, and said data record includes at least one code representing an item advertised in said advertisement represented by said data record (see col 48, lines 55-67).

Claim 11, Treyz teaches:

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Wherein said data record is generated within said shopping cart and transmitted to a store computer system (see col 48, lines 55-67); and steps d) and e) are performed according to instructions executing within said store computer system (see col 48, lines 55-67).

Claim 12, Treyz teaches:

Wherein said advertisement history data is generated within said shopping cart (see col 48, lines 35-40) and

transmitted to a store computer system, said data record is generated within said store computer system by comparing said advertisement history data with an advertisement data structure including codes representing items advertised by a plurality of advertisements (see col 47, line 30 – col 48, line 40).

Claim 13, Treyz teaches:

wherein step d) includes determining a name associated with a code representing an item from an item data structure relating codes representing items with names associated with said items (see col 47, line 50 – col 48, line 40); and

comparing said name associated with said code with a data record representing an advertisement displayed on said shipping cart, wherein said data record includes a name advertised in said advertisement represented by said data record (see col 47, line 50 – col 48, line 40).

Claim 14, Treyz teaches:



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Wherein said data record is generated within said shopping cart and transmitted to a store computer system (see col 47, lines 55-67); and steps d) and e) are performed according to instructions executing within said store computer system (see col 47, lines 55-67).

Claim 15, Treyz teaches:

Wherein said advertisement history data is generated within said shopping cart and transmitted to a store computer system, said data record is generated within said store computer system, and steps d) and e) are performed according to instructions executing within said store computer system (see col 47, lines 55-67).

Claim 17, Treyz teaches:

Wherein step a) is controlled by executing instructions in a store computer system according to data transmitted from said store computing system to said shopping cart, and said advertisement history data is generated and stored within said store computer system (see col 47, lines 15-67).

Claim 18, Treyz teaches:

Wherein step c) includes reading a machine readable element identifying said at least one item with a sensing device at a point-of-sale terminal, said method additionally comprises transmitting said code representing at least one item purchased by a shopper using said shopping cart from said point-of-sale terminal to said store computer system, and

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steps d) and e) are performed according to instructions executing within said store computer system (see col 47, lines 55-67).

Claim 19, Treyz teaches:

Wherein step c) includes reading a machine readable element identifying said at least one item with a sensing device attached to said shopping cart, said method additionally comprises transmitting said code representing said at least one item to said store computer system from said shopping cart, and steps d) and e) are performed according to instructions executing within said store computer system (see col 47, lines 55-67).

Claim 20, Treyz teaches:

A system for displaying advertisements and for determining effectiveness of said advertisements, wherein said system comprises: at least one shopping cart including a display unit for displaying advertisements, means for generating and storing advertisement history data representing advertisements displayed within said display unit, and a transmitter for transmitting said advertising history data (see col 48, lines 35-40); at least one sensing device for generating item codes representing items having machine readable elements identifying said items (see col 47, lines 55-67); and a store computer system including an item data structure storing codes representing a plurality of items, an advertisement data structure storing data representing advertisements, communication means for receiving said item codes and said advertisement history data (see col 47, lines 30-67), and a processor

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programmed to compare said item codes with said advertisement history data to determine whether an item advertised in an advertisement displayed in said at least one shopping cart has been purchased by said shopper, and to generate usage data representing each display of an advertisement for an item purchased by said shopper using said shopping cart (see col 47, line 30 – col 48, line 40).

Claim 21, Treyz teaches:

additionally comprising at least one point-of-sale terminal and a communication channel extending between each said at least one point-of-sale terminal and said store computer system, wherein each said sensing device is located at a point-of-sale terminal, said transmitter transmits said advertisement history data to said point-of-sale terminal (see col 47, lines 50-67), and

each said at least one point-of-sale terminal transmits said advertisement history data and said item codes to said store computer system over said communication channel (see col 47, lines 40-67).

Claim 22, Treyz teaches:

Wherein each of said transmitters is a portion of a transceiver, each of said at least one point-of-sale terminals transmits a beacon signal, and said transmitter transmits said advertisement history data to said point-of-sale terminal upon receiving said beacon signal at said transceiver (see col 47, lines 55-67).

Claim 23, Treyz teaches:

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Wherein each said sensing device is located in one of said at least one shopping cart, and said transmitter transmits said advertisement data history and said item codes to said store computer system (see col 47, lines 15-67).

Claim 24, Treyz teaches:

Wherein said display unit includes a display screen displaying images generated from an electronic signal, and said shopping cart includes storage including an advertisement history data structure holding said advertising history data (see col 48, lines 15-40).

Claim 25, Treyz teaches:

Wherein said display unit comprises at least one slot for holding a placard having printed advertisement data and a plurality of switches activated by a element of surface structures on said placard, and said advertisement history data is generated from outputs of said plurality of switches (see col 64, lines 1-15 "logos adjacent").

Claim 26, Treyz teaches:

A system for displaying advertisements and for determining effectiveness of said advertisements, wherein said system comprises: at least one shopping cart including a display unit for displaying advertisements and a receiver for receiving data causing said advertisements to be displayed (see col 47, lines 15-67);

at least one sensing device for generating item codes representing items having machine readable elements identifying said items (see col 47, lines 55-67); and

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a store computer system including an item data structure storing codes representing a plurality of items, an advertisement data structure storing data representing advertisements, communication means for receiving said item codes and for transmitting said data causing said advertisements to be displayed in said display unit of each of said at least one shopping cart, a transaction data structure storing advertisement history data representing advertisements displayed within said display unit of each of said at least one shopping cart, and a processor programmed to generate said data causing said advertisements to be displayed in said display unit of each of said at least one shopping cart, to compare said item codes with said advertisement history data to determine whether an item advertised in an advertisement displayed-in said at least one shopping cart has been purchased by said shopper, and to generate usage data representing each display of an advertisement for an item purchased by said shopper using said shopping cart (see col 47, line 30 – col 48, line 40).

Claim 27, Treyz teaches:

additionally comprising at least one point-of-sale terminal and a communication channel extending between each said at least one point-of-sale terminal and said store computer system, wherein each said sensing device is located at a point-of-sale terminal transmitting said item codes to said store computer system (see col 47, lines 55-67).

claim 28, Treyz teaches:

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wherein each said sensing device is located in one of said at least one shopping cart, and each said shopping cart transmits said item codes to said store computer system (see col 47, lines 55-67).

Claims 29, 43 and 56, Treyz teaches:

A method for displaying a plurality of advertisements within a shopping cart having a display screen and a microprocessor and for transmitting data indicating which advertisements have been displayed, wherein said method comprises

- a) determining that a period of use of said shopping cart has begun (see col 50, lines 1-15);
- b) displaying a series of advertisements within said plurality of advertisements on said display screen (see col 48, lines 35-40);
- c) for each of said advertisements displayed, recording data identifying said advertisement in an advertisement history data structure;
- d) transmitting data from said advertisement history data file;
- e) determining that said period of use of said shopping cart has ended (see col 48, lines 15-40); and
- f) stopping a display of said series of advertisements (see col 47, lines 30-35).

Claims 30, 44 and 57, Treyz teaches:

Wherein step a) includes determining that said shopping cart has been moved, and a determination that said period of use of said shopping cart has ended is

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made in response to determining that a predetermined period of time has passed since a last movement of said shopping cart (see col 55, lines 30-45).

Claim 31, Treyz teaches:

Wherein step a) includes determining that a switch on said shopping cart has been manually operated, and a determination that said period of use of said shopping cart has ended is made in response to determining that a predetermined period of time has passed since a last movement of said shopping cart (see col 55, lines 30-45).

Claims 32, 45 and 58, Treyz teaches:

additionally comprising determining that said shopping cart has been moved into proximity with a point-of-sale terminal, wherein, in response to determining that said shopping cart has been moved into proximity with a point-of-sale terminal, said data from said advertisement history file is transmitted to said point-of-sale terminal in step d); and a determination that said period of use of said shopping cart has ended is made in step e) (see col 55, lines 30-45).

claims 33, 46 and 59, Treyz teaches:

wherein step a) includes determining that a machine readable element identifying a first item has been read by a sensing device within said shopping cart, and a determination that said period of time of said shopping Cart use is made in step e) in response to a determination that a sales receipt is being printed by a receipt printer within said shopping cart (see col 53, lines 55-60).

Claims 34, 47 and 60, Treyz teaches:

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wherein said data from said advertisement history file is transmitted in response to determining that a machine readable element identifying a first item has been read by a sensing device within said shopping cart (see col 47, lines 15-67).

Claims 35, 48 and 61, Treyz teaches:

A method performed within a computer system for determining how often advertisements are displayed in shopping carts used to purchase items advertised in said advertisements, wherein said method comprises:

- a) receiving a code describing an item to be purchased (see col 47, lines 15-67);
- b) determining that said item described by said code is advertised within an advertisement described by advertisement history data describing at least one advertisement displayed in a shopping cart (see col 47, lines 15-67); and
- c) generating usage data indicating a display of said advertisement described by said advertising history data in a shopping cart used to purchased an item advertised within said advertisement (see col 47, lines 15-67).

Claims 36, 49 and 62, Treyz teaches:

Wherein said method additionally comprises receiving said advertisement history data in a first transmission from a point-of-sale terminal, and said code is received in a transmission from said point-of-sale terminal following said first transmission (see col 47, lines 15-67).

Claims 37, 50 and 63, Treyz teaches:



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wherein said code and said advertising history data are received together in a transmission from a shopping cart (see col 47, lines 15-67).

Claims 38, 51 and 64, Treyz teaches:

wherein step c) includes comparing said code with at least one code for an advertised item contained within said advertisement history data received in step b) (see col 47, lines 15-67).

claims 39, 52 and 65, Treyz teaches:

wherein step c) includes:  
reading an advertisement data record from an advertisement data structure stored within said computer system for an advertisement described in said advertisement history data received in step b); and  
comparing said code with one or more codes for advertised items contained within said advertisement data record (see col 47, line 15 – col 48, line 40).

Claims 40, 53 and 66, Treyz teaches:

wherein step c) includes:  
reading an advertisement data record from an advertisement data structure stored within said computer system for an advertisement described in said advertisement history data received in step b);  
reading an item data record from an item data structure stored within said computer system for an item identified by said code received in step a); and  
comparing an advertised name read from said advertisement data record

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with a name associated with said item read from said item data record (see col 47, lines 15-67).

Claims 42, 55 and 68, Treyz teaches:

additionally comprising transmitting a code causing an advertisement to be displayed on said shopping cart, and generating said advertising history data (See col 47, lines 15-67).

***Claim Rejections - 35 USC § 103***

5. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 16, 41, 54 and 67 are rejected under 35 U.S.C. 103(a) as being unpatentable over Treyz (US 6,587,835).

Claims 16, 41, 54 and 67, Treyz teaches:

additionally comprising determining a plurality of amounts of money owed by a plurality of advertisers by applying an algorithm to said usage data. However, Official Notice is taken that it is old and well known in the promotion art to bill advertisers for the number of ads displayed in a pos. Therefore, it would have been obvious to a person of ordinary skill in the art at the time the application was made, to know that Treyz would charge advertisers for displaying their ads in the handheld terminals, as it is old and well known to do so.

***Conclusion***

6. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure:

- Sloane (US 5,918,211) teaches a shopping cart advertisement system.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to DANIEL LASTRA whose telephone number is 571-272-6720 and fax 571-273-6720. The examiner can normally be reached on 9:30-6:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, James W. Myhre can be reached on (571)272-6722. The official Fax number is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

/DANIEL LASTRA/  
Examiner, Art Unit 3688  
September 17, 2008